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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,486	09/29/2005	Marcos Requena Penat	932.1328	4294

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WOLF BLOCK SCHORR AND SOLIS-COHEN LLP
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EXAMINER

GANESAN, SUNDHARA M

ART UNIT	PAPER NUMBER
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3764

NOTIFICATION DATE	DELIVERY MODE
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11/29/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO@WOLFBLOCK.COM

Office Action Summary

Application No.

10/551,486

Applicant(s)

PENAT ET AL.

Examiner

Sundhara M. Ganesan

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

~~1, 3-7, 9-18~~
Claims ~~1-18~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over

Chuang (US Pat. 5,765,921) in view of Wang (US Pat. 5,499,417). Chuang describes the same invention as claimed, including: a double sided support (51) with one upper side and one lower side, one of which is rigid and the other of which includes an inflatable flexible element (4), resting means (11,12) for the support that allows users to carry out aerobic (in this case, stepping) and cardio exercises and to work on their physical condition in general using the rigid side (the user steps on this portion), wherein the inflatable flexible element has a dished upper side on which the user stands (see Fig. 1) to carry out balance, proprioception and coordination exercises and wherein the resting means are feet (11,12) that rotate about the support and about a horizontal axis to allow the user to alternate between the upper side and the lower side to work on both the areas of aerobic and cardio and the areas of balance, proprioception and coordination (the Chuang device is inherently capable of being used in an up-side-down configuration for balancing).

Chuang does not show the inflatable flexible element has a rectangular base.

Wang teaches an inflatable flexible element (2) having a rectangular base (rectangular portion generally indicated at 18).

At the time the invention was made, it would have been obvious to one skilled in the art to include the rectangular base of Wang on the device of Chuang. Doing so would provide a stable base for the inflatable member so that the device only rotates on the upper, curved portion of the inflatable member and not the base, which serves as a limit on the angle the platform can deflect, as shown by Wang in Fig. 1. One skilled in the art would recognize that limiting the angle the platform can deflect would provide the benefit of preventing the platform of Chuang from hitting the resting means (11, 12), thereby avoiding unnecessary wear and tear on the device. Therefore, it would have been prima facie obvious to combine Wang and Chuang to obtain the invention as specified in claim 1.

Regarding claim 3, Chuang shows the inflatable flexible element is detachable (Fig. 1 shows the detached state) and is joined to the support by joining means (3).

Regarding claim 4, the rigid side comprises a contact platform (521) joined to the support by joining means.

Regarding claim 5, the joining means (3) comprises a housing (see aperture in platform, Fig. 1) which accommodates the inflatable flexible element (4).

Regarding claim 6, the housing comprises means (curved inner surfaces) to set the position of the inflatable flexible element.

Regarding claim 7, the inflatable flexible element comprises means (a curved surface and a through-bore locking the flexible element to joining means 3) to set its position in the housing.

Regarding claim 9, the inflatable flexible element (4) comprises the area of a base that is the thickest (Fig. 6).

Regarding claim 10, Wang shows the inflatable flexible element as comprising supports (apertures 18 for example) on its base.

Regarding claim 11, Wang shows the inflatable flexible element comprises a platform (4) joined to the base.

Regarding claim 12, Chuang shows the support comprises gaps (23) to partially scramble the feet.

Regarding claim 13, Wang shows the support as comprising means to fix elastic bands for exercises entailing toning up muscles, body building, and rehabilitation (elastic bands can be hooked to members (21, 22, 3, or wrapped around the platform 51,52).

Regarding claim 14, the contact platform is formed out of plastic. Since it is used for aerobic stepping and balancing exercises, it is capable of absorbing and restoring energy, and thus it is considered to be a point-elastic material.

Regarding claim 15, the device comprises means (Fig. 5A-B) to regulate its height.

Regarding claim 16, the support and the feet comprise means (95) to hold and handle the device.

Regarding claim 17, the inflatable flexible element comprises means (41) to hold and handle the device.

Regarding claim 18, Wang shows the inflatable flexible element comprises at least one valve (not shown, but present due to the inflatable ball and tube, since the air would leak out of the flexible element unless a stop valve is present to prevent the flow of air out of the device).

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Regarding the arguments presented with respect to the Chuang device, applicant argues that the bases of Chuang can not rotate around the shaft. This is possible by a user grasping the pedals, and flipping the entire device up-side-down. The pedals do not rotate about the shaft (3), but instead rotate about a horizontal axis located approximately at shaft (3).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chuang and Wang were cited in the previous action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sundhara M. Ganesan whose telephone number is 571-272-3340. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.G.
11/19/2007



LOAN H. THANH
PRIMARY EXAMINER